

Senate File 508 - Introduced

SENATE FILE 508

BY CHAPMAN

A BILL FOR

1 An Act relating to abortion information and data, including
2 a public dashboard and public awareness measures, and
3 providing civil penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS AND INTENT.

2 1. The general assembly finds all of the following:

3 a. That, as stated in Planned Parenthood of Southeastern
4 Pennsylvania v. Casey, 505 U.S. 833, 846 (1992), "[t]he State
5 has legitimate interests from the outset of the pregnancy in
6 protecting the health of the woman".

7 b. Specifically, as stated in Akron v. Akron Ctr. for
8 Reproductive Health, Inc. 462 U.S. 416, 428-429 (1983), "...
9 a State has a legitimate concern with the health of women who
10 undergo abortions..."

11 c. Abortion is an invasive, surgical procedure that can
12 cause severe physical and psychological, both short-term and
13 long-term, complications for women, including but not limited
14 to: uterine perforation, cervical perforation, infection,
15 bleeding, hemorrhage, blood clots, failure to terminate the
16 pregnancy, incomplete abortion (retained tissue), pelvic
17 inflammatory disease, endometritis, missed ectopic pregnancy,
18 cardiac arrest, respiratory arrest, renal failure, metabolic
19 disorder, shock, embolism, coma, placenta previa in subsequent
20 pregnancies, preterm delivery in subsequent pregnancies, free
21 fluid in the abdomen, adverse reactions to anesthesia and
22 other drugs, an increased risk for developing breast cancer,
23 psychological or emotional complications such as depression,
24 suicidal ideation, anxiety, sleeping disorders, and death.

25 d. To facilitate reliable scientific studies and research
26 on the safety and efficacy of abortion, it is essential that
27 the medical and public health communities have access to
28 accurate information both on the abortion procedure and on
29 complications resulting from abortion.

30 e. As stated in Planned Parenthood of Central Missouri v.
31 Danforth, 428 U.S. 52, 80 (1976), "Recordkeeping and reporting
32 requirements that are reasonably directed to the preservation
33 of maternal health and that properly respect a patient's
34 confidentiality and privacy are permissible".

35 f. Abortion and complication reporting provisions do not

1 impose an "undue burden" on a woman's right to choose whether
 2 or not to terminate a pregnancy. Specifically, as stated in
 3 Planned Parenthood of Southeastern Pennsylvania v. Casey,
 4 505 U.S. 833, 900-901 (1992), "The collection of information
 5 with respect to actual patients is a vital element of medical
 6 research, and so it cannot be said that the requirements serve
 7 no purpose other than to make abortions more difficult".

8 g. To promote its interest in maternal health and life, the
 9 state of Iowa maintains an interest in all of the following:

10 (1) Collecting certain demographic information on all
 11 abortions performed in the state.

12 (2) Collecting information on all complications from all
 13 abortions performed in the state.

14 (3) Compiling statistical reports based on abortion
 15 complication information collected pursuant to this Act for
 16 future scientific studies and public health research.

17 2. Based on the findings in subsection 1, it is the intent
 18 of this Act to promote the health and safety of women by
 19 increasing medical and public health knowledge through the
 20 compilation of relevant information on all abortions performed
 21 in the state, as well as on all medical complications and
 22 maternal deaths resulting from these abortions.

23 Sec. 2. NEW SECTION. 146E.1 Definitions.

24 For the purposes of this chapter, unless the context
 25 otherwise requires:

26 1. "Abortion" means the act of using or prescribing any
 27 instrument, medicine, drug, or any other substance, device, or
 28 means with the intent to terminate the clinically diagnosable
 29 pregnancy of a woman with knowledge that the termination by
 30 those means will, with reasonable likelihood, cause the death
 31 of the unborn child. Such use, prescription, or means is
 32 not an abortion if done with the intent to save the life or
 33 preserve the health of an unborn child, remove a dead unborn
 34 child caused by spontaneous abortion, or remove an ectopic
 35 pregnancy.

1 2. "*Born-alive*" means the complete expulsion or extraction
2 from the woman of a human infant, at any stage of development,
3 who, after such expulsion or extraction, breathes, has a
4 beating heart, or has definite movement of voluntary muscles,
5 regardless of whether the umbilical cord has been cut and
6 regardless of whether the expulsion or extraction was the
7 result of natural or induced labor, cesarean birth, induced
8 abortion, or other method.

9 3. "*Complication*" means any adverse physical or
10 psychological condition arising from inducing or performing an
11 abortion.

12 4. "*Department*" means the department of public health.

13 5. "*Gestational age or probable gestational age*" means the
14 age of the unborn child as calculated from the first day of the
15 last menstrual period of the pregnant woman.

16 6. "*Health care provider*" means an individual licensed under
17 chapter 148, 148C, 148D, or 152, or any individual who provides
18 medical services under the authorization of the licensee.

19 7. "*Hospital*" means the same as defined in section 135B.1.

20 8. "*Medical facility*" means the same as defined in section
21 146B.1.

22 9. "*Physician*" means a person licensed under chapter 148
23 to practice medicine and surgery or osteopathic medicine and
24 surgery in this state.

25 10. "*Pregnant*" means the female reproductive condition of
26 having an unborn child in the woman's uterus.

27 11. "*Unborn child*" means the same as defined in section
28 146B.1.

29 Sec. 3. NEW SECTION. 146E.2 Abortion reporting requirements
30 — physicians.

31 1. A physician who performs an abortion shall file with
32 the department a report that includes all of the following
33 information with respect to each abortion and each woman upon
34 whom an abortion is performed:

35 a. The date of each abortion.

- 1 *b.* The procedure used.
- 2 *c.* The gestational age or probable gestational age of the
3 unborn child.
- 4 *d.* The age of the woman.
- 5 *e.* The race and ethnicity of the woman.
- 6 *f.* The gender of the unborn child, if known.
- 7 *g.* The woman's county of residence, if in this state; the
8 woman's state of residence, if not this state; or, if the woman
9 is not a citizen of the United States, the woman's country of
10 origin.
- 11 *h.* The woman's level of education.
- 12 *i.* Whether the father by operation of law or the putative
13 father of the unborn child, if known, was notified of the
14 abortion prior to the performance of the abortion; and whether
15 the woman refused to disclose whether such father or putative
16 father, if known, was notified of the abortion prior to the
17 performance of the abortion.
- 18 *j.* The woman's marital status and whether the woman refused
19 to provide her marital status.
- 20 *k.* Whether the woman, prior to seeking an abortion, received
21 all of the following:
 - 22 (1) Any state-mandated informed consent counseling for
23 abortions.
 - 24 (2) Any verbal or written counseling related to the risks
25 and complications of abortion.
 - 26 (3) Any information related to alternatives to abortion.
 - 27 (4) An ultrasound imaging of the unborn child.
- 28 *l.* The specific reasons for the abortion, including but not
29 limited to the following:
 - 30 (1) Whether the pregnancy was the result of rape or incest.
 - 31 (2) Economic reasons.
 - 32 (3) Whether the woman does not want the child at the present
33 time.
 - 34 (4) Whether the woman's physical health is endangered
35 and the specific reason her physical health is endangered,

1 including any preexisting condition.

2 (5) Whether the woman's psychological, mental, or emotional
3 health is endangered and the specific reason her psychological,
4 mental, or emotional health is endangered, including any
5 preexisting condition.

6 (6) Whether the woman will suffer substantial and
7 irreversible impairment of a major bodily function if the
8 pregnancy continues, specifically identifying the potential
9 impairment.

10 (7) The actual or presumed gender of the child.

11 (8) The diagnosis, presence, or presumed presence of a
12 genetic anomaly, specifically identifying the anomaly.

13 *m.* Whether the woman refused to provide a reason for the
14 abortion under paragraph "1".

15 *n.* The number of the woman's prior pregnancies, live births,
16 spontaneous terminations of pregnancy, and abortions.

17 *o.* Whether the abortion was paid for by any of the
18 following:

19 (1) Private health insurance.

20 (2) Public health insurance including Medicaid.

21 (3) Self-pay, including not being billed to or paid for
22 through insurance.

23 *p.* Complications, if any, from the abortion, including if
24 the abortion resulted in death.

25 *q.* If a drug-induced abortion was accomplished using
26 telemedicine, the medical facility code of the location the
27 woman used and the medical facility code of the physician
28 prescribing, dispensing, or otherwise providing the
29 abortion-inducing drug.

30 *r.* If the abortion resulted in a born-alive infant, all of
31 the following:

32 (1) What medical actions were taken to preserve the life of
33 the infant.

34 (2) Whether the infant survived.

35 (3) If the infant survived, the status of the infant, if

1 known.

2 *s.* The medical specialty of the physician performing the
3 abortion.

4 *t.* Whether the woman took possession of the tissue and
5 remains resulting from the abortion in order to conduct a
6 proper burial.

7 2. *a.* A physician shall report the required information on
8 forms provided and in accordance with section 146E.4.

9 *b.* A physician may submit completed reports to the
10 department on a weekly basis, but shall submit completed
11 reports for the entire preceding month no later than 11:59 p.m.
12 on the first day of the subsequent month.

13 Sec. 4. NEW SECTION. 146E.3 Abortion complications —
14 reporting requirements.

15 1. A hospital, medical facility, or health care provider who
16 provides care to a woman who reports any complication, requires
17 medical treatment, or suffers death that the hospital, medical
18 facility, or health care provider has reason to believe is a
19 primary, secondary, or tertiary result of an abortion, shall
20 file a written report with the department. The report shall
21 be completed and signed by the hospital, medical facility,
22 or health care provider who attended the woman and shall be
23 transmitted to the department within thirty days of the death
24 of the woman or of discharge of the woman reporting or being
25 treated for the complication. The reports submitted shall
26 comply with section 146E.4.

27 2. Each report of a complication, medical treatment, or
28 death following abortion required under this section shall
29 contain, at a minimum, all of the following information:

30 *a.* The age of the woman.

31 *b.* The race and ethnicity of the woman.

32 *c.* The woman's county of residence, if in this state; the
33 woman's state of residence, if not this state; or, if the woman
34 is not a citizen of the United States, the woman's country of
35 origin.

1 *d.* The number of the woman's prior pregnancies, live births,
2 spontaneous terminations of pregnancy, and abortions.

3 *e.* The date the abortion was performed, as well as the
4 reason for the abortion and the method used, if known.

5 *f.* Identification of the physician who performed the
6 abortion, the facility where the abortion was performed, and
7 the referring physician, agency, or service, if any.

8 *g.* The specific complication that led to the treatment
9 or death including but not limited to failure to actually
10 terminate the pregnancy, missed ectopic pregnancy, uterine
11 perforation, cervical perforation, incomplete abortion
12 (retained tissue), bleeding, infection, hemorrhage, blood
13 clots, cardiac arrest, respiratory arrest, pelvic inflammatory
14 disease, damage to pelvic organs, endometritis, renal failure,
15 metabolic disorder, shock, embolism, free fluid in the
16 abdomen, acute abdomen, adverse reaction to anesthesia or
17 other drugs, hemolytic reaction due to the administration
18 of ABO-incompatible blood or blood products, hypoglycemia
19 where the onset occurred while the woman was being cared for
20 in the facility where the abortion was performed, physical
21 injury associated with therapy performed in the facility where
22 the abortion was performed, coma, death, and psychological
23 or emotional complications including but not limited to
24 depression, suicidal ideation, anxiety, and sleep disorders.

25 *h.* The amount billed for the costs of treatment of the
26 specific complication, including whether the treatment was
27 billed to public health insurance including Medicaid, private
28 health insurance, self-pay including not being billed to
29 private health insurance, or other payment source. The amount
30 billed shall include charges for any physician, hospital,
31 emergency room, prescription or other drugs, laboratory tests,
32 and any other costs for the treatment rendered.

33 Sec. 5. NEW SECTION. 146E.4 Forms and requirements for
34 reporting of abortion-related information.

35 1. The department shall assign a code to any health care

1 provider, hospital, or medical facility that may be required
2 to report information or that may be identified under section
3 146E.2 or 146E.3. An application procedure shall not be
4 required for assignment of a code to a health care provider,
5 hospital, or medical facility.

6 2. A health care provider, hospital, or medical facility
7 shall assign a report tracking number to each report which
8 enables the health care provider, hospital, or medical facility
9 to access the woman's medical information without identifying
10 the woman.

11 3. The department shall develop and make available to health
12 care providers, hospitals, and medical facilities reporting
13 forms to collect the required information under section 146E.2
14 and 146E.3.

15 4. The information collected and reported, the data
16 compiled under section 146E.2 and 146E.3, and the reports
17 submitted shall comply with the limitations and confidentiality
18 requirements established pursuant to section 144.29A.

19 **Sec. 6. NEW SECTION. 146E.5 Abortion data public dashboard**
20 **— declaration of abortion pandemic — public awareness measures**
21 **— reports.**

22 1. *a.* The department shall develop a public dashboard to
23 inform the public on a monthly basis of statewide aggregate
24 data compiled based on the information included in reports
25 submitted by health care providers under this chapter. The
26 dashboard shall have the capacity to be updated on a weekly
27 basis.

28 *b.* The department shall maintain and update the dashboard in
29 accordance with this section.

30 *c.* The dashboard shall provide statewide aggregate data,
31 which shall be available in a downloadable format, relating to
32 all of the following:

33 (1) The number of abortions performed during the prior
34 month.

35 (2) A running total of the number of abortions performed to

1 date in the current calendar year.

2 (3) The type of procedure used to perform the abortion.

3 (4) The gestational age or probable gestational age of the
4 unborn child in weeks.

5 (5) The age of the woman.

6 (6) The race and ethnicity of the woman.

7 (7) The number and type of complications resulting from the
8 abortions performed during the prior month.

9 2. *a.* The information collected and reported and the data
10 compiled under this section shall comply with the limitations
11 and confidentiality requirements established pursuant to
12 section 144.29A.

13 *b.* The data on the dashboard shall be displayed as statewide
14 aggregate data for the current calendar year only; however,
15 the dashboard shall have the capacity to allow the public to
16 view the data for any previous year for which such data is
17 available, delineated by month.

18 *c.* The total number of abortions reported to date shall be
19 renewed each calendar year, annually, on January 1.

20 3. The department shall implement the dashboard by January
21 20, 2022, health care providers shall report the required
22 information beginning February 1, 2022, and the initial display
23 of dashboard data shall be made available to the public no
24 later than 11:59 p.m. on February 2, 2022.

25 4. At any point in a month, if the number of reported
26 abortions meets or exceeds two hundred, the circumstances shall
27 constitute an abortion pandemic and the department shall issue
28 public service announcements via email, radio, television,
29 and social media and print advertisements to educate the
30 public regarding the abortion pandemic and the alternatives to
31 abortion available as specified in section 146A.1. The public
32 service announcements shall begin no later than five days
33 following the date on which the number of abortions reaches the
34 threshold specified in this subsection for issuance of a public
35 service announcement and shall continue until the completion

1 of a subsequent calendar month in which the number of reported
2 abortions is less than two hundred and the completion of any
3 two-week period in which the number of reported abortions is
4 less than one hundred.

5 5. The department shall summarize aggregate data from the
6 reports required under this chapter and shall submit the data
7 to the centers for disease control and prevention of the United
8 States department of health and human services for the purpose
9 of inclusion in the annual vital statistics report.

10 6. Notwithstanding any provision of law to the contrary,
11 beginning January 31, 2023, and annually thereafter, the
12 department shall provide all of the following to the governor
13 and to the senate and house of representatives human resources
14 standing committees:

15 a. A report of each information metric required to be
16 reported by physicians under section 146E.2 by county and month
17 for the preceding calendar year.

18 b. A statistical report based on the information gathered
19 from reports of the complications from abortions reported
20 pursuant to section 146E.3 for the preceding calendar year.

21 Sec. 7. NEW SECTION. **146E.6 Penalties.**

22 1. A health care provider who fails to report the
23 information required under section 146E.2 or 146E.3 in a
24 timely manner is subject to a civil penalty of one thousand
25 dollars for a first violation, two thousand dollars for a
26 second violation, four thousand dollars for a third violation,
27 ten thousand dollars for a fourth violation, and twenty
28 thousand dollars for a fifth violation and for each subsequent
29 violation. If a health care provider becomes aware of
30 misreported information, the health care provider shall submit
31 the corrected information and shall not be subject to a civil
32 penalty if the error was not intentional or reckless.

33 2. A physician who knowingly or intentionally fails to
34 report the information required under section 146E.2 or 146E.3,
35 to maintain any required records, or to report the information

1 required at the times required is guilty of unprofessional
2 conduct and is subject to licensee discipline pursuant to
3 section 148.6.

4 3. A health care provider who knowingly or intentionally
5 fails to report the information required under section 146E.2
6 or 146E.3, to maintain any required records, or to report
7 the information required at the times required is guilty of
8 unprofessional conduct and is subject to licensee discipline
9 in accordance with the licensing discipline provisions of the
10 appropriate licensing board.

11 Sec. 8. Section 144.29A, subsection 1, paragraph c, Code
12 2021, is amended by striking the paragraph.

13 Sec. 9. Section 144.29A, subsection 2, unnumbered paragraph
14 1, Code 2021, is amended to read as follows:

15 It is the intent of the general assembly that the information
16 shall be collected, reproduced, released, and disclosed in a
17 manner specified by rule of the department, adopted pursuant
18 to [chapter 17A](#), which ensures the anonymity of the patient
19 who experiences a termination of pregnancy, the health care
20 provider who identifies and diagnoses or induces a termination
21 of pregnancy, and the hospital, clinic, or other health
22 facility in which a termination of pregnancy is identified and
23 diagnosed or induced. The department shall share information
24 with the centers for disease control and prevention of the
25 United States department of health and human services and may
26 share information with other federal public health officials
27 for the purposes of securing federal funding or conducting
28 public health research. However, in sharing the information,
29 the department shall not relinquish control of the information,
30 and any agreement entered into by the department with federal
31 public health officials to share information shall prohibit the
32 use, reproduction, release, or disclosure of the information
33 by federal public health officials in a manner which violates
34 this section. The department shall publish, annually, a
35 demographic summary of the information obtained pursuant to

1 provider, hospital, or medical facility that may be required
2 to report information or that may be identified under the
3 bill. An application procedure shall not be required for
4 assignment of a code to a health care provider, hospital, or
5 medical facility. A health care provider, hospital, or medical
6 facility shall assign a report tracking number to each report
7 which enables the health care provider, hospital, or medical
8 facility to access the woman's medical information without
9 identifying the woman. DPH is required to develop and make
10 available to health care providers, hospitals, and medical
11 facilities reporting forms to collect the required information,
12 and the information collected and reported, the data compiled,
13 and the reports submitted under the bill shall comply with
14 the limitations and confidentiality requirements pursuant to
15 Code section 144.29A (termination of pregnancy reporting —
16 legislative intent).

17 DPH shall develop a public dashboard to inform the public on
18 a monthly basis of statewide aggregate data compiled based on
19 the information included in reports submitted by health care
20 providers, hospitals, and medical facilities under the bill.
21 The dashboard shall have the capacity to be updated on a weekly
22 basis.

23 The dashboard shall provide statewide aggregate data
24 relating to the number of abortions performed during the prior
25 month, a running total of the number of abortions performed
26 to date in the current calendar year, the type of procedure
27 used to perform the abortion, the gestational age or probable
28 gestational age of the unborn child in weeks, the age of
29 the woman, and the race and ethnicity of the woman, and the
30 number and type of complications resulting from the abortions
31 performed during the prior month. The information collected
32 and reported and the data compiled for the dashboard under the
33 bill shall comply with the limitations and confidentiality
34 requirements established pursuant to existing termination of
35 pregnancy reporting requirements. The data on the dashboard

1 shall be available in a downloadable format and displayed as
2 statewide aggregate data for the current calendar year only.
3 However, the dashboard shall have the capacity to allow the
4 public to view the data for any previous year for which such
5 data is available, delineated by month. The total number of
6 abortions reported to date shall be renewed each calendar year,
7 annually, on January 1.

8 DPH shall implement the dashboard by January 20, 2022,
9 health care providers shall report the required information
10 beginning February 1, 2022, and the initial display of
11 dashboard data shall be made available to the public no later
12 than 11:59 p.m. on February 2, 2022.

13 DPH is required to summarize aggregate data from the
14 required reports and submit the data to the centers for disease
15 control and prevention (CDC) for inclusion in the annual vital
16 statistics report.

17 Beginning January 31, 2023, and annually thereafter, DPH
18 shall provide to the governor and to the senate and house
19 of representatives human resources standing committees of a
20 report of each information metric required to be reported by
21 physicians under the bill by county and month for the preceding
22 calendar year and a statistical report based on reported
23 abortion complications for the preceding calendar year.

24 Under the bill, if, at any point in a month the number of
25 reported abortions meets or exceeds 200, the circumstances
26 shall constitute an abortion pandemic and DPH shall issue
27 public service announcements to educate the public regarding
28 the abortion pandemic and the alternatives to abortion
29 available as specified in Code section 146A.1. The public
30 service announcements shall begin no later than five days
31 following the date on which the number of abortions reaches
32 the threshold and shall continue until the completion of a
33 subsequent calendar month in which the number of reported
34 abortions is less than 200 and the completion of any two-week
35 period in which the number of reported abortions is less than

1 100.

2 A health care provider who fails to report the information
3 required under the bill in a timely manner is subject to a
4 civil penalty of \$1,000 for a first violation, \$2,000 for a
5 second violation, \$4,000 for a third violation, \$10,000 for
6 a fourth violation, and \$20,000 for a fifth violation and
7 for each subsequent violation. If a health care provider
8 becomes aware of misreported information, the health care
9 provider shall submit the corrected information and shall not
10 be subject to a civil penalty if the error was not intentional
11 or reckless.

12 A physician who knowingly or intentionally fails to report
13 the information required under the bill, to maintain any
14 required records, or to report the information required at the
15 times required under the bill, is guilty of unprofessional
16 conduct and is subject to licensee discipline which may include
17 license suspension or revocation and a civil penalty not to
18 exceed \$10,000.

19 A health care provider who knowingly or intentionally fails
20 to report the information required under the bill, to maintain
21 any required records, or to report the information required at
22 the times required under the bill is guilty of unprofessional
23 conduct and is subject to licensee discipline in accordance
24 with the licensing discipline provisions of the appropriate
25 licensing board.

26 The bill also amends Code section 144.29A to eliminate the
27 reporting metric of the maternal health services region of DPH
28 as designated as of July 1, 1997, in which the patient resides
29 and also provides that the termination of pregnancy reporting
30 information collected by DPH shall be shared with the CDC and
31 may be shared with other federal public health officials to
32 secure federal funding or to conduct public health research.

33 The bill provides that the bill shall not be construed as
34 creating or recognizing a right to an abortion and that it is
35 not the intent of the bill to make lawful an abortion that is

S.F. 508

1 currently unlawful.